

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTORNEY DOCKET NO. 087354-0109

Applicants: Roland R.THOMPSON et al.

Title: SYSTEM AND METHOD FOR PERFORMING SUBSTITUTE
FULFILLMENT

Appl. No.: 09/683,093

Filing Date: 11/16/2001

Examiner: Catherine Michelle Tarae

Art Unit: 3623

Confirmation Number: 8060

**NOTIFICATION OF LOSS OF ENTITLEMENT TO
SMALL ENTITY STATUS**

Director of the USPTO
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. §1.27(g)(2), Applicants hereby state that Small Entity Status in the above-identified application is no longer appropriate. In accordance with 37 C.F.R. §1.28(c), therefore, Applicant submits the following:

- **Separate Submission required for each patent:** Applicants are submitting a deficiency owed for the above-captioned application.
- **Calculation and Payment of deficiency owed:** Applicants paid fees for Basic Filing Fee in the small entity amount of \$370.00, \$63.00 for 7 claims over 20 and \$336.00 for 8 claims over 3. The fee for payment of Basic, Search and Examination Fees for a large entity is \$1,030.00, \$350.00 for 7 claims over 20 and \$1,680.00 for 8 claims over 3. Therefore, the total amount owed

is \$2,291.00. An itemization of the deficiency payment, as required by 37 C.F.R. §1.28(c)(2)(ii) is shown below.

- **Calculation and Payment of deficiency owed:** Applicants paid fees for a Three-Month Extension of Time in the small entity amount of \$510.00. The fee for payment for a Three-Month Extension of Time for a large entity is \$1,050.00. Therefore, the total amount owed is \$540.00. An itemization of the deficiency payment, as required by 37 C.F.R. §1.28(c)(2)(ii) is shown below.
- **Calculation and Payment of deficiency owed:** Applicants paid fees for Request for Continued Examination in the small entity amount of \$395.00. The fee for Request for Continued Examination for a large entity is \$810.00. Therefore, the total amount owed is \$415.00. An itemization of the deficiency payment, as required by 37 C.F.R. §1.28(c)(2)(ii) is shown below.
- **Calculation and Payment of deficiency owed:** Applicants paid fees for 15 additional claims over 20 in the small entity amount of \$375.00 and \$700.00 for 7 additional independent claims over 3. The fee for 15 additional claims over 20 for a large entity is \$750.00 and \$1,470.00 for 7 additional independent claims over 3. Therefore, the total amount owed is \$2,220.00. An itemization of the deficiency payment, as required by 37 C.F.R. §1.28(c)(2)(ii) is shown below.
- **Calculation and Payment of deficiency owed:** Applicants paid fees for a One-Month Extension of Fee in the small entity amount of \$60.0. The fee for a One-Month Extension of Fee for a large entity is \$120.00. Therefore, the total amount owed is \$60.00. An itemization of the deficiency payment, as required by 37 C.F.R. §1.28(c)(2)(ii) is shown below.

(A) Type of fees paid erroneously as Small Entity:

Basic Filing Fee	(Large Entity Fee - \$1,030.00)
3 Month Extension of Time Fee	(Large Entity Fee - \$1,050.00)
RCE Filing Fee	(Large Entity Fee - \$810.00)

Extra Claims Fee	(Large Entity Fee - \$50.00 for additional claims over 20 and \$210.00 for additional independent claims over 3)
One Month Extension of Time Fee	(Large Entity Fee - \$120.00)

(B1) The Small Entity fee paid:

Basic Filing with Additional Claims Fee	\$ 769.00
3 Month Extension of Time Fee	\$ 510.00
RCE Filing Fee	\$ 395.00
Extra Claims Fee	\$1,075.00
One Month Extension of Time Fee	\$ 60.00

(B2) When Fee was paid:

Basic Filing with Additional Claims Fee	(November 16, 2001)
3 Month Extension of Time Fee	(January 9, 2006)
RCE Filing Fee	(July 21, 2006)
Extra Claims Fee	(September 22, 2006)
One Month Extension of Time Fee	(January 24, 2007)

(C) The deficiency amount owed:

Basic Filing with Additional Claims Fee	\$2,291.00
3 Month Extension of Time Fee	\$ 540.00
RCE Filing Fee	\$ 415.00
Extra Claims Fee	\$2,220.00
One Month Extension of Time Fee	\$ 60.00

(D) The total deficiency payment owed:

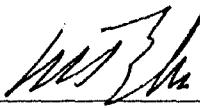
\$5,526.00 (Basic Filing with Additional Claims Fee \$2,291.00, Three Month-Extension of Time Fee \$540.00, RCE Filing Fee \$415.00, Extra Claims Fee \$2,220.00 and a One Month Extension of Time Fee \$60.00)

Enclosed is a credit card payment in the amount of \$5,526.00, for payment of the total deficiency owed amount. Fees paid presently and henceforth will be paid based on large entity status.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

Please contact the undersigned with any additional questions.

Respectfully submitted,



William T. Ellis
Attorney for Applicant
Registration No. 26,874

5/20/08
Date

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5485
Facsimile: (202) 672-5399

02/11/2009 13:04 FAX

EFW
02/11/09

ATTORNEYS AT LAW
WASHINGTON HARBOUR
3000 K STREET, N.W., SUITE 500
WASHINGTON, D.C. 20007-5143
TELEPHONE: 202.672.5300
FACSIMILE: 202.672.5399
WWW.FOLEY.COM

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of Pages (including this page)

TO:	PHONE #:	FAX #:
U.S. Patent and Trademark Office Finance Department	571-272-6349	571-273-6500

From : Lynda K. Peyton
 National IP Accounting Coordinator
Email Address : lpeyton@foley.com
Sender's Direct Dial : 202.672.5398
Date : 02/11/2009
Our Docket No. : 087354-0109
Patent Appln. No. : 09/683,093

RECEIVED

FEB 17 2009

OFFICE OF PETITIONS

MESSAGE:

I have prepared a Duty of Candor in order to have a filing fee charged as the PTO has not billed for this filing. Please see the attached documents giving you instructions to charge the fee accordingly. If you have any questions, please feel free to contact me directly.

Sincerely, Lynda Peyton 202-672-5398

National IP Accounting Coordinator

Foley and Lardner LLP

If there are any problems with this transmission or if you have not received all of the pages, please call 202.672.5517.

Operator:	Time Sent	Return Original To:
		Lynda K. Peyton

CONFIDENTIALITY NOTICE: THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS INTENDED ONLY FOR THE PERSONAL AND CONFIDENTIAL USE OF THE DESIGNATED RECIPIENTS NAMED ABOVE. THIS MESSAGE MAY BE AN ATTORNEY-CLIENT COMMUNICATION, AND AS SUCH IS PRIVILEGED AND CONFIDENTIAL. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT OR ANY AGENT RESPONSIBLE FOR DELIVERING IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT YOU HAVE RECEIVED THIS DOCUMENT IN ERROR, AND THAT ANY REVIEW, DISSEMINATION, DISTRIBUTION OR COPYING OF THIS MESSAGE IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US IMMEDIATELY BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US BY MAIL. THANK YOU.

Cover Page 1 of 1

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PAGE 1/7 *RCVD AT 2/11/2009 1:04:11 PM [Eastern Standard Time]* SVR:USPTO-EFXRF-5/27 *DNIS:2736500 *CSID: *DURATION (mm:ss):01:32

Atty. Dkt. No. 087354-0109

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Roland R. Thompson et al.

Title: **SYSTEM AND METHOD FOR
PERFORMING SUBSTITUTE
FULFILLMENT**

Appl. No.: 09/683,093

Examiner: Catherine Michelle Tarae

Confirmation 8060

Number:

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FEB 17 2009

OFFICE OF PETITIONS**COMMUNICATION REGARDING FEES CHARGED TO CREDIT CARD**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

In accordance with Applicants duty of candor and good faith of the U.S. Patent and Trademark Office (PTO), Applicants note that the fee in the amount of \$5526.00 has not been charged by the PTO for the filing the **Notification of Loss of Entitlement to Small Entity Status** for the above-captioned application. (copy enclosed)

It is hereby requested that the Patent Office verify the fee due in connection with the filing, and make necessary corrections.

With this communication, I give you instructions to charge the Foley and Lardner Deposit Account number 19-0741 in the amount of \$5526.00.

02/12/2009 DALLEN 00000030 190741 09683093
01 FC:1461 5526.00 DA

Atty. Dkt. No. 087354-0109

Respectfully submitted,

Date 2/11/09

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 672-5398
Facsimile: (202) 672-5399

By Lynda K. Peyton

Lynda K. Peyton
National Accounting Coordinator

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTORNEY DOCKET NO. 087354-0109

COPY
OF FILING

RECEIVED

FEB 17 2009

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Title: SYSTEM AND METHOD FOR PERFORMING SUBSTITUTE FULFILLMENT OFFICE OF PETITIONS

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Filing Date: 11/16/2001

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Please contact the undersigned with any additional questions.

Respectfully submitted,

Date	William T. Ellis
FOLEY & LARDNER LLP	Attorney for Applicant
Customer Number: 22428	Registration No. 26,874
Telephone: (202) 672-5485	
Facsimile: (202) 672-5399	



United States Patent and Trademark Office

Date Printed: 12-30-2009 12:41:25 EST

Transaction list for user: Cynthia Leonard

Type	Transaction Status	Date Posted	Name/Number	Attorney Docket Number	Charges/Credits (-)	Account
Sale	Active	07/14/2008	09683093	087354-0109	\$130.00	DA# 190741
Sale	Active	02/12/2009	09683093	087354-0109	\$5,526.00	DA# 190741

(*) indicates that a single payment paid for multiple items or multiple payments paid for a single item.

Note: Adjustments indicate that a sale was reversed, not that payments were refunded.



UNITED STATES PATENT AND TRADEMARK OFFICE

EXHIBIT D

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

MAILED

MAR 26 2009

OFFICE OF PETITIONS

In re Patent No. 7,430,519 :
Issue Date: September 30, 2008 :
Application No. 09/683,093 :
Filed: November 16, 2001 :
Attorney Docket No. 087354-0109 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. **154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is **NOT ACCEPTED** for the reasons stated below.

The request cannot be accepted at the present time because the request is unsigned.

Inquiries related to this communication should be directed to the April M. Wise at (571) 272-1642.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions